

**Amendments to the Drawings:**

The attached sheets of drawings include changes made to the lines, numbers, and letters of Figs. 1-5. The attached sheets, which include Figs. 1-5, replace the original sheets including Figs. 1-5.

Attachment: Replacement Sheets

## **Remarks**

This Amendment is responsive to the non-final Office Action mailed on June 23, 2006. Claims 1-17 are pending. Claims 1 and 13 have been amended. In view of the following remarks and the forgoing amendments, Applicants respectfully submit that this application is in complete condition for allowance and requests reconsideration of the application in this regard.

### **Amendments to the Drawings**

The Examiner requested that the Applicants submit corrected drawings in compliance with 37 CFR 1.121(d) because “the lines, numbers and letters are not uniform, clean and well defined (of a generally poor quality) in each of the 5 figures.” Applicants submit herewith a set of corrected drawings include changes made to the lines, numbers, and letters of Figs. 1-5. Applicants submit that no “new matter” has been added by these drawing corrections.

### **Rejection of Claims under 35 U.S.C. § 102(b)**

#### ***Claims 1-10, 12 and 13 over Kato***

Claims 1-10, 12, and 13 stand rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Pat. No. 4,503,006 to Kato (hereinafter *Kato*). Of the rejected claims, claims 1 and 13 are the sole independent claims. The Examiner contends that *Kato* shows or teaches all the elements of the rejected claims. Applicants respectfully traverse the Examiner’s contention.

The Examiner asserts on page 3 of the Office Action that *Kato* discloses “a forming space (Fig 1, #6)” and “the cutting device having a cutter (Fig 1, #10) that is at least partially introducible into the forming space.” Applicants submit that a person having ordinary skill in the art would recognize that *Kato* teaches a forming space that is defined inside a die (5). The tag pin extrusion is shaped in the forming space inside the die (5). After the extrusion is discharged from the outlet opening (unlabeled) of the die (5), no further shaping of the extrusion occurs. *Kato* discloses that the cutter device (6) is positioned downstream from the outlet opening of the forming space inside die (5). A cooling device that facilitates “a high cooling performance in a relatively short time” is disposed between the die (5) and the cutting device (6). *See Kato* at col. 3, lines 41-49. The cooling device cools the extrusion “to a temperature at which the cutting at the next operation step can be facilitated.” *See Kato* at col. 4, lines 39-42. *Kato* discloses that the cutter device (6) includes guide members (7, 8) with guide through-holes

(9, 10). However, the cutter device (6) does not further shape the extrusion. Instead, the guide members (7, 8) in *Kato* operate to guide the cooled extrusion while the cutter member (12) cuts the extrusion into connected tag pins. *Kato* fails to disclose that the shape of the extrusion is altered by the cutter device (6) to differ from the shape defined at the outlet opening from the forming space inside die (5). Hence, the cutter device (6) in *Kato* is not at least partially introducible into the forming space, as set forth in Applicants' claim 1.

In order for a reference to anticipate the invention in a claim, the reference must teach each and every element in the precise arrangement set forth in the claim. If the reference fails to teach even one of the claimed elements, the reference does not and cannot anticipate the claimed invention. Because *Kato* fails to disclose that the cutting device has a cutter that is at least partially introducible into the forming space, *Kato* fails to anticipate Applicants' independent claim 1. Therefore, for at least this reason, Applicants respectfully request that the Examiner withdraw the rejection.

Because claims 2-10 and 12 depend from independent claim 1, Applicants submit that these claims are also patentable. Furthermore, each of claims 2-10 and 12 recites a unique combination of elements not disclosed or suggested by *Kato*.

Independent claim 13 is patentable for at least the same reasons as independent claim 1, as remarked above. Consequently, Applicants request that the rejection of this claim be withdrawn.

*Claims 1-5, 12, 13, and 15-17 over Covington*

Claims 1-5, 12, 13, and 15-17 stand rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Pat. No. 4,503,006 to Covington et al. (hereinafter *Covington*). Of the rejected claims, claims 1 and 13 are the sole independent claims. The Examiner contends that *Covington* shows or teaches all the elements of the rejected claims. Applicants respectfully traverse the Examiner's contention.

The Examiner asserts on pages 3 and 4 of the Office Action that *Covington* discloses "a forming space (Fig 5, #38 and 58)" and "the cutting device having a cutter (Fig 6, #44a) that is at least partially introducible into the forming space." Applicants submit that a person having ordinary skill in the art would recognize that *Covington* teaches a forming space that is designated as a passage (38) with an outlet opening (37). A person having ordinary skill

in the art would appreciate the cutting blades (i.e. the wiper arms 44a) in *Covington* are entirely located outside of the outlet opening (37) and, therefore, also outside of the forming space (38). Because *Covington* fails to disclose that the cutting device has a cutter that is at least partially introducible into the forming space, *Covington* fails to anticipate Applicants' independent claim 1. Therefore, for at least this reason, Applicants respectfully request that the Examiner withdraw the rejection.

Because claims 2-5, 12, 16, and 17 depend from independent claim 1, Applicants submit that these claims are also patentable. Furthermore, each of claims 2-5, 12, 16, and 17 recites a unique combination of elements not disclosed or suggested by *Covington*. For example, *Covington* fails to disclose that the wiper arms (44a) act in a direction perpendicular to the direction in which the mass is filled into the forming space.

Independent claim 13 is patentable for at least the same reasons as independent claim 1, as remarked above. Because claim 15 depends from independent claim 13, Applicants submit that this claim is also patentable for at least the same reasons discussed above. Furthermore, this claim recites a unique combination of elements not taught, disclosed or suggested by *Covington*. Consequently, Applicants request that the rejection of this claim be withdrawn.

#### Claims 1-5, 11-13, 16, and 17 over Gilson

Claims 1-5, 11-13, 16, and 17 stand rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Pat. No. 2,497,724 to Gilson et al. (hereinafter *Gilson*). Of the rejected claims, claims 1 and 13 are the sole independent claims. The Examiner contends that *Gilson* shows or teaches all the elements of the rejected claims. Applicants respectfully traverse the Examiner's contention.

The Examiner asserts on pages 4 of the Office Action that *Gilson* discloses "a forming space (Fig 1, #20)" and "the cutting device having a cutter (Figs 3 and 4, #s 56-58) that is at least partially introducible into the forming space." Applicants submit that a person having ordinary skill in the art would recognize that *Gilson* teaches a forming space that is situated between die members (20) and (27). See Fig. 1 and col. 3, lines 8 to 12. However, a person having ordinary skill in the art would understand that only a part of die member (20), namely the annular bushing (22) with the shoulder (23) and the corresponding die core (27), can be

considered as a forming space. *See* Fig. 1 and col. 2, lines 42 to 55; col. 3, lines 1 to 4. The flared, bell-shaped portion of die member (20) is not part of the forming space, as suggested in the Office Action by the Examiner, because the bell-shaped portion of die member (20) does not influence the shape of the extruded tubes. Instead, the bell-shaped portion of die member (20) serves to provide open space so that the cutting device located at the lower end of shaft (38) can entirely cut through the extruded tubes without contacting the annular bushing (22) and the shoulder (23) that define the forming space. Because *Gilson* fails to disclose that the cutting device has a cutter that is at least partially introducible into the forming space, *Gilson* fails to anticipate Applicants' independent claim 1. Therefore, for at least this reason, Applicants respectfully request that the Examiner withdraw the rejection.

Because claims 2-5, 11, 12, 16, and 17 depend from independent claim 1, Applicants submit that these claims are also patentable. Furthermore, each of claims 2-5, 11, 12, 16, and 17 recites a unique combination of elements not disclosed or suggested by *Gilson*. For example, *Gilson* fails to disclose that the wiper arms (44a) act in a direction perpendicular to the direction in which the mass is filled into the forming space.

Independent claim 13 is patentable for at least the same reasons as independent claim 1, as remarked above. Consequently, Applicants request that the Examiner withdraw the rejection of this claim.

#### Claims 1-9 and 12-15 over Morikawa

Claims 1-9 and 12-15 stand rejected under 35 U.S.C. § 102(b) as anticipated by U.S. Pat. No. 5,289,764 to Morikawa et al. (hereinafter *Morikawa*). Of the rejected claims, claims 1 and 13 are the sole independent claims. The Examiner contends that *Morikawa* shows or teaches all the elements of the rejected claims. Applicants respectfully traverse the Examiner's contention.

The Examiner asserts on page 5 of the Office Action that *Morikawa* discloses "a forming space (Fig 3, portions about #35)" and "the cutting device having a cutter (Fig 5, #38) that is at least partially introducible into the forming space." Applicants submit that a person having ordinary skill in the art would recognize that *Morikawa* teaches a forming space which is part of a reciprocating hopper (15). The forming space ends at the lower ends of the walls of hopper (15). Below these lower ends, the dough is no longer supported by the walls of the

hopper (15). Thus, these lower ends define an outlet opening from the forming space inside the hopper (15). A person having ordinary skill in the art would appreciate that the cutting device (38) is not introducible into the forming space inside the hopper (15) as, otherwise, the cutting device (38) would contact the hopper (15). This is evident from a comparison of figures 2 and 3 in *Morikawa*. *Morikawa* discloses that the lower ends of the hopper (15) are spaced from the cutting device (38) so that hopper (15) can be moved relative to the stationary cutting device (38) to cut portions of the dough. In the absence of this clearance space, the cutting device (38) would contact the lower ends of the hopper (15) as the dough portions are cut. Because *Morikawa* fails to disclose that the cutting device has a cutter that is at least partially introducible into the forming space, *Morikawa* fails to anticipate Applicants' independent claim 1. Therefore, for at least this reason, Applicants respectfully request that the Examiner withdraw the rejection.

Because claims 2-9 and 12 depend from independent claim 1, Applicants submit that these claims are also patentable. Furthermore, each of claims 2-9 and 12 recites a unique combination of elements not disclosed or suggested by *Morikawa*.

Independent claim 13 is patentable for at least the same reasons as independent claim 1, as remarked above. Because claims 14 and 15 depend from independent claim 13, Applicants submit that these claims are also patentable for at least the same reasons discussed above. Furthermore, each of these claims recites a unique combination of elements not taught, disclosed or suggested by *Morikawa*. Consequently, Applicants request that the rejection of these claims be withdrawn.

### **Conclusion**

Applicants have made a bona fide effort to respond to each and every requirement set forth in the Office Action. In view of the foregoing amendments and remarks, this application is submitted to be in complete condition for allowance and, accordingly, a timely notice of allowance to this effect is earnestly solicited. In the event that any issues remain outstanding, the Examiner is invited to contact the undersigned to expedite issuance of this application.

Applicants do not believe fees are dues in connection with filing this communication other than a one-month time extension fee. If, however, any petition or additional fees are necessary as a result of this communication, the Commissioner is hereby

authorized to charge any under-payment or fees associated with this communication or credit any over-payment to Deposit Account No. 23-3000.

Respectfully submitted,  
WOOD, HERRON & EVANS, L.L.P.

/William R. Allen/

William R. Allen

Reg. No. 48,389

2700 Carew Tower  
441 Vine Street  
Cincinnati, Ohio 45202-2917  
513/241-2324 (Voice)

Attachments